

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SAMUEL DAVID STOCKMAN, D.D.S.,

Plaintiff,

vs.

CASE NO. 03-CV-70660-DT  
HON. LAWRENCE P. ZATKOFF

OAKCREST DENTAL CENTER,  
P.C., a Michigan corporation, and  
LOUIS E. LEONOR, D.D.S.,

Defendants.

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**OPINION AND ORDER**

AT A SESSION of said Court, held in the  
United States Courthouse, in the City of Port Huron,  
State of Michigan, on March 29, 2007

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF  
UNITED STATES DISTRICT JUDGE

**I. INTRODUCTION**

This matter is before the Court on Plaintiff's Motion for Award of Attorney Fees (Docket #48), Plaintiff's Supplemental Motion for Attorney Fees (Docket #68) and the Bill of Costs filed by Defendants' (Docket #75). The parties have filed responses and, in some instances, replies. The Court finds that the facts and legal arguments pertinent to the filings are adequately presented in the parties' papers, and the decisional process will not be aided by oral arguments. Therefore, pursuant to E.D. Mich. Local R. 7.1(e)(2), it is hereby ORDERED that the filings be resolved on the briefs submitted, without this Court entertaining oral arguments. For the reasons that follow, all three motions are DENIED WITHOUT PREJUDICE.

## **II. BACKGROUND**

This case was filed in the U.S. District Court, Eastern District of Michigan (the “Eastern District”), on February 18, 2003, and assigned to Judge George Woods. Plaintiff’s two-count Complaint alleged that Defendants terminated his employment and discriminated against him on the basis of age, in violation of the Age Discrimination and Employment Act (“ADEA”), 29 U.S.C. 621 *et seq.*, and the Michigan Elliot Larsen Civil Rights Act (“ELCRA”), M.C.L. 37.2202 *et seq.*

After a trial before Judge Woods, the jury entered a verdict and damages in favor of the Plaintiff, including \$154,300 in back pay, \$61,300 in front pay, \$100,000 in mental anguish, plus \$154,300 in liquidated damages upon finding that the Defendants’ conduct was willful. Shortly after the conclusion of the trial, Judge Woods retired from the Eastern District and this case was reassigned to the undersigned in accordance with the Eastern District’s procedure for reassigning cases. As the parties could not agree on the judgment to be entered in this case, this Court ultimately entered a Judgment on September 14, 2004. Defendants subsequently filed a Renewed Motion for Judgment as a Matter of Law and Motion for New Trial. This Court denied both of the motions.

Defendants timely appealed this case to the Sixth Circuit. On March 16, 2007, the Sixth Circuit issued an opinion, wherein it reversed the judgment of this Court and remanded the case to this Court for a new trial.

## **III. ANALYSIS**

When the Sixth Circuit reversed the judgment of this Court and remanded the case for a new trial, the Sixth Circuit did not make any statement or comment as to whether Plaintiff or Defendants were the prevailing party. Rather, as a new trial is the directive for this Court, neither party can be considered a prevailing party. Accordingly, neither party is entitled to any attorney fees, costs, expenses, etc. from the other party at this time.

#### IV. CONCLUSION

Accordingly, and for the reasons set forth above, Plaintiff's Motion for Award of Attorney Fees (Docket #48), Plaintiff's Supplemental Motion for Attorney Fees (Docket #68) and the Bill of Costs filed by Defendants' (Docket #75) are DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF  
UNITED STATES DISTRICT JUDGE

Dated: March 29, 2007

#### CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on March 29, 2007.

s/Marie E. Verlinde

Case Manager  
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